

3.906

3.906 Remedies.

(a) If the head of the agency or designee determines that a contractor has subjected one of its employees to a reprisal for providing information to a Member of Congress, or an authorized official of an agency or of the Department of Justice, the head of the agency or designee may take one or more of the following actions:

(1) Order the contractor to take affirmative action to abate the reprisal.

(2) Order the contractor to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

(3) Order the contractor to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal.

(b) Whenever a contractor fails to comply with an order, the head of the agency or designee shall request the Department of Justice to file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this section, the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

(c) Any person adversely affected or aggrieved by an order issued under this section may obtain review of the order's conformance with the law, and this subpart, in the United States Court of Appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the agency or designee. Review shall conform to Chapter 7 of Title 5, United States Code.

48 CFR Ch. 1 (10-1-11 Edition)

3.907 Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (the Recovery Act).

3.907-1 Definitions.

As used in this section—

Board means the Recovery Accountability and Transparency Board established by Section 1521 of the Recovery Act.

Covered funds means any contract payment, grant payment, or other payment received by a contractor if—

(1) The Federal Government provides any portion of the money or property that is provided, requested, or demanded; and

(2) At least some of the funds are appropriated or otherwise made available by the Recovery Act.

Covered information means information that the employee reasonably believes is evidence of gross mismanagement of the contract or subcontract related to covered funds, gross waste of covered funds, a substantial and specific danger to public health or safety related to the implementation or use of covered funds, an abuse of authority related to the implementation or use of covered funds, or a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) awarded or issued relating to covered funds.

Inspector General means an Inspector General appointed under the Inspector General Act of 1978. In the Department of Defense that is the DoD Inspector General. In the case of an executive agency that does not have an Inspector General, the duties shall be performed by an official designated by the head of the executive agency.

Non-Federal employer, as used in this section, means any employer that receives Recovery Act funds, including a contractor, subcontractor, or other recipient of funds pursuant to a contract or other agreement awarded and administered in accordance with the Federal Acquisition Regulation.

[74 FR 14634, Mar. 31, 2009, as amended at 75 FR 34259, June 16, 2010]

3.907-2 Policy.

Non-Federal employers are prohibited from discharging, demoting, or